



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 31, 1994

Mr. Bob Kahn  
Law Offices of Davidson & Troilo  
301 Congress Avenue, Suite 1400  
Austin, Texas 78701

OR94-533

Dear Mr. Kahn:

You have asked this office to determine if certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27451.

The Cameron County Fresh Water District No. 1 (the "district") received a request from an attorney for the following information:

[M]y clients are requesting that the District furnish them with an accurate accounting of all applications for connections, impact fees charged, District calculations in arriving at such impact fees, impact fees paid and refunds which have been made, if any. Furthermore, my clients are demanding an accounting of all amounts paid out of impact fees towards the retirement of any bonded indebtedness owed by the District, any account held by the District for the purpose of contingent refunds of excess impact fees and a listing of all impact fees refund requests from any developer or resident and any and all refunds made, together with a calculation of such refund.

You contend that the requested information is excepted from disclosure under section 552.103.

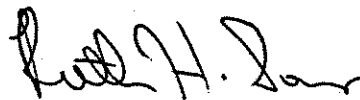
To show the applicability of section 552.103, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4.

However, the district has not demonstrated that litigation is reasonably anticipated. You contend that litigation is reasonably anticipated because of a letter the requestor sent to the district. You submitted to this office the requestor's letter asking for a refund of certain tap fees paid by his clients. Although there may be a possibility of litigation involving the district and the requestor's clients concerning the requested refund, the "mere chance" of a lawsuit is not sufficient to trigger the exception. Open Records Decision No. 518 (1989) at 5. As the district has not demonstrated that litigation is reasonably anticipated, the requested information may not be withheld under section 552.103.

You also state that the requestor has asked for the information at issue in "list" form. You ask if the district is required to produce the requested information in list form, when it does maintain its records in list form. The district does not have to organize information in a particular way in response to an open records request. Attorney General Opinion JM-672 (1987) at 5; Open Records Decision Nos. 599 (1992) at 5 (governmental body does not have to create new documents or compile lists of information); 572 (1990) at 1 (information does not have to be compiled into lists). Although the district does not have to compile lists, the district is required to provide to the requestor public information which is responsive and contained in the district's records. Gov't Code § 552.228; Open Records Decision Nos. 87, 74 (1975); see Open Records Decision No. 606 (1992). We note that you did not submit any responsive documents to this office for review. However, we assume that the district has information about fees, bonded indebtedness and refunds that may be responsive to the request. This information must be provided to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Government Section

RHS/rho

Ref.: ID# 27451

cc: Mr. William A. Faulk, Jr.  
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